

November 16, 1998

**DURHAM, NORTH CAROLINA
MONDAY, NOVEMBER 16, 1998
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: Council Member Burnette.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time, the following announcements were made: Council Member Langley noted that November 14-21, 1998 was being recognized as "Education Week." Council Member Miller thanked the Durham Police Department for hosting the recent Citizens Police Academy Class. Council Member Cox informed the audience of his upcoming community meeting on Wednesday, November 18, 1998 to be held at the Hayti Heritage Center. Mr. Cox noted the topic to be discussed "Economic and Employment Development." Mayor Pro Tempore Clement recognized the Seven Star Campaign Organizers for the City of Durham.

Mayor Tennyson asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Ewell requested that Consent Item 14 [Prioritization Plan-Hazard Mitigation Grant Application] be pulled from the agenda to be brought back before the Council in two weeks. City Attorney Blinder provided information regarding the legislative referrals carried over from the 1998 legislative program for consideration and possible inclusion in the 1999 legislative program. City Clerk Bowers informed the Council of the valid protest petition filed against Rezoning Case P98-40.

Mayor Tennyson provided information to the Council relative the January 23, 1999 City Council Retreat.

The Mayor asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. **[No items pulled by the Council and/or Citizens]**

MOTION by Council Member Larson seconded by Miller to approve the Consent Agenda as amended was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs,

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Langley, Larson, McKissick and Miller. Noes: None. Absent:
Council Member Burnette.

[CONSENT AGENDA]

SUBJECT: COMMUNITY SUBSTANCE ABUSE PREVENTION PROGRAM

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "City of Durham Grant Project Ordinance U. S. Department of Health and Human Services Community Substance Abuse Prevention Program FY 1998-99" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Ordinance #11597

**SUBJECT: PROPERTY DAMAGE FROM WATER LINE BREAK - NEWELL STREET
AND MORRENE ROAD**

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to pay four claims, not to exceed a total of \$48,000, for damages incurred at 101, 106, and 108 Newell Street and 938 Morreene Road resulting from a water line break was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

**SUBJECT: CONTRACT FOR SERVICES AND FACILITIES WITH LEBANON
VOLUNTEER FIRE DEPARTMENT**

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Lebanon Volunteer Fire Department in the amount of \$75,419 for the use of Lebanon Volunteer Fire Department facilities and for supplemental fire protection in the City and in the Lebanon Fire District was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

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SUBJECT: FINAL APPROVAL - ROCKWOOD NORTH ELDERLY RENTAL HOUSING - 1996 HOUSING BOND FUNDS

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Loan Agreement with Rockwood North, LLC, in an amount not to exceed \$334,500 from 1996 Housing Bond Funds, and to execute related loan closing documents, and to make minor changes to the Loan Agreement and other related loan closing documents as are consistent with the loan's terms and the City's Housing Bond policies; and

To find and determine that mortgage loans for this rental housing project are not otherwise available, wholly or in part, from public or private lenders, upon equivalent or reasonably equivalent terms and conditions was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: SUBRECIPIENT GRANT AGREEMENT WITH THE DURHAM COMMUNITY LAND TRUSTEES, INC. FOR CONSTRUCTION MANAGER POSITION FUNDING

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Subrecipient Grant Agreement and related documents with Durham Community Land Trustees, Inc. in an amount not to exceed \$36,000 from Community Development Block Grant (CDBG) funds; and, to make minor changes to the Grant Agreement and other related documents as are consistent with CDBG requirements as published by the U. S. Department of Housing and Community Development (HUD); and

To determine that funds for this project are not otherwise available, wholly or in part, from public or private lenders, upon equivalent or reasonably equivalent terms and conditions was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: PROPOSED SALE OF CITY TRACT #48 TO C. O. COUCH - CORNER OF MAIN STREET AND HILLSBOROUGH ROAD

MOTION by Council Member Larson seconded by Council Member Miller to declare the remainder of City Tract #48 as surplus; approve the

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sale of the property to C. O. Couch for \$2,500; and, to authorize the Mayor to execute the deed was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: REPORT ON RESPONSE FROM THE FEDERAL COMMUNICATIONS COMMISSION CONCERNING THE CITY'S RATE FOR STANDARD CABLE SERVICE

MOTION by Council Member Larson seconded by Council Member Miller to accept the report on the outcome of the rate complaint for standard cable service was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: LEGISLATIVE PROGRAM UPDATE TO COUNCIL

MOTION by Council Member Larson seconded by Council Member Miller to receive an update on City Council's Legislative Program for the 1998 Short Session of the General Assembly was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: 1999 LEGISLATIVE PROGRAM

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the City Attorney concerning the 1999 Legislative Program; and

To approve the 1999 Legislative Program Calendar and the 1999 Legislative Program Areas of Responsibility was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: RESOLUTION SUPPORTING THE AIRPORT NOISE ABATEMENT COMMITTEE'S REQUEST CONCERNING PURCHASING A PERMANENT

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NOISE MONITORING SYSTEM

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution supporting the Airport Noise Abatement Committee's request to Raleigh-Durham Airport Authority that the Authority consider purchasing a permanent noise monitoring system was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Resolution #8509

SUBJECT: DURHAM COUNTY ANIMAL CONTROL ORDINANCE

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Permitting the Durham County Animal Control Ordinance, as Amended, to Continue to be Applicable Within the City of Durham" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Resolution #8510

SUBJECT: LIVE FIRE TRAINING EXERCISE - 5321 SOUTH MIAMI BOULEVARD

MOTION by Council Member Larson seconded by Council Member Miller to approve the burning of the structure located at 5321 South Miami Boulevard for a live fire training exercise was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: INTERLOCAL COOPERATION AGREEMENT BETWEEN THE COUNTIES OF DURHAM AND WAKE AND THE CITIES OF DURHAM AND RALEIGH

MOTION by Council Member Larson seconded by Council Member Miller to adopt "A Resolution Establishing an Interlocal Cooperation Agreement between Durham County, North Carolina; Wake County, North Carolina; the City of Durham, North Carolina; and the City of Raleigh, North Carolina" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement

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and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Resolution #8511

SUBJECT: PRIORITIZATION PLAN - HAZARD MITIGATION GRANT APPLICATION

To adopt a "Resolution Adopting a Prioritization Plan for Voluntary Acquisition Activities, Hazard Mitigation Grant Program (HMGP), City of Durham, North Carolina" that provides a priority plan methodology to be used by the City of Durham for selecting homes for purchase if hazard mitigation grant funding is approved.

City Manager Ewell requested that this item be held for two weeks.

Note: Item will be placed on the November 30, 1998 Public Works Agenda.

MOTION by Council Member Larson seconded by Council Member Miller to refer this item to the administration was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: STORM WATER UTILITY ORDINANCE AMENDMENT - INSTALLMENT PAYMENTS FOR STORM WATER DRAINAGE PROJECTS ON PRIVATE PROPERTY

MOTION by Council Member Larson seconded by Council Member Miller to adopt "An Ordinance Amending the City of Durham Interim Storm Water Utility Ordinance" to provide for installment payments of the private cost of drainage repairs and improvements on private property was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Ordinance #11598

SUBJECT: RESOLUTION TO DELEGATE THE CITY MANAGER OR DESIGNEE OF THE CITY MANAGER THE AUTHORITY TO APPROVE INSTALLMENT IMPROVEMENTS ON PRIVATE PROPERTY UNDER THE AUTHORITY OF

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**CHAPTER 52, 1998 SESSION LAWS, AMENDING THE CHARTER OF
THE CITY OF DURHAM**

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution that authorizes the City Manager or designee to approve requests by property owners for paying the private cost of storm water drainage repair and improvement projects on private property in installments was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Resolution #8512

**SUBJECT: LICENSE AGREEMENT WITH BARRINGER ENTERPRISES - EAGLE
VIEW DRIVE, UNDERGROUND IRRIGATION LINE**

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a License Agreement with Barringer Enterprises, Incorporated for the installation of an underground irrigation line was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH COUNTRY CLUB
HEIGHTS - COUNTRY CLUB HEIGHTS SUBDIVISION**

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Water and Sewer Extension Agreement with Country Club Heights for the extension of City water and sewer to serve the Country Club Heights Subdivision located at the northeast corner of the intersection of Umstead and Craig Roads was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: PROPOSED ACQUISITIONS FOR THE DURHAM CENTRAL PARK

a. Property of JLH Investments, Inc.

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MOTION by Council Member Larson seconded by Council Member Miller to approve the acquisition of 1.42± acres located at 501 - 521 Foster Street, Tax Map 61-04-003, from JLH Investments, Inc. for \$479,714.00 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

b. Property of Wachovia Bank Trustee of Profit Sharing Plan of Martha Florence Donegan, M.D.

MOTION by Council Member Larson seconded by Council Member Miller to approve the acquisition of a 2.659± acre tract of vacant land located at 509-511 Rigsbee Avenue, Tax Map 61-03-003, from Wachovia Bank Trustee of Profit Sharing Plan of Martha Florence Donegan, M.D., dated October 15, 1979, for \$521,200.00 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: AMERICAN TOBACCO TRAIL PHASE C - REIMBURSEMENT AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution to authorize the City Manager to enter into an Agreement with the North Carolina Department of Transportation for the construction of Phase C of the American Tobacco Trail was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Resolution #8513

SUBJECT: STATUS OF HILLSIDE AND DUKE PARK POOLS

MOTION by Council Member Larson seconded by Council Member Miller to receive and accept a report from the Parks and Recreation Department regarding the status of Hillside and Duke Park Pools was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

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SUBJECT: STATUS REPORT ON MARTIN LUTHER KING, JR. PARKWAY AND LANDSCAPING PLANS FOR THE PARKWAY

MOTION by Council Member Larson seconded by Council Member Miller to receive a status report from the Administration on the Martin Luther King, Jr. Parkway and landscaping plans for the Parkway was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: PROPOSED ACQUISITION FOR MARTIN LUTHER KING, JR. PARKWAY

MOTION by Council Member Larson seconded by Council Member Miller to approve the acquisition of approximately 22,045 square feet, which includes two residential dwellings, and to make payment for damages to the remainder of un-acquired property located on Whitaker Road, Tax Map 415-05-004, property of Glenn Parrish, Inc., with the total of payment being \$171,600.00 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: BIDS - JANITORIAL SERVICES AT POLICE HEADQUARTERS, PHD CLEANING, INC.

MOTION by Council Member Larson seconded by Council Member Miller to accept the bid from PHD Cleaning, Inc. in the amount of \$57,180 for providing janitorial services at Police Headquarters was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING CERTAIN PETITIONED IMPROVEMENTS

MOTION by Council Member Larson seconded by Council Member Miller to accept a Certificate of Sufficiency from the City Engineer for each of the following petitions; and

To adopt resolutions setting public hearings on Monday, December

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7, 1998 to consider ordering the following improvements was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

- a. **Sidewalk - Revere Road (West Side)** from Seaton Road to north property line of Tax Map 548-1-42;
- b. **Water Main - Jean Avenue** from Cavalier Avenue to Chapel Hill Road; and
- c. **Curb, Gutter and Paving and Water and Sewer Laterals - Ebon Road** from Barbee Road to Grundy Street.

SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING CERTAIN IMPROVEMENTS UNDER THE ENABLING ACT AUTHORITY

MOTION by Council Member Larson seconded by Council Member Miller to adopt resolutions setting public hearings on Monday, December 7, 1998 to consider ordering the following improvements under the Enabling Act Authority was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

- a. **Sidewalk - Avondale Drive (East Side)** from east property line of Tax Map 118-4-3 to north property line of Tax Map 117-5-1 and **Alcott Street (East Side)** from south property line of Tax Map 117-4-3 to north property line of Tax Map 117-4-1.
- b. **Sidewalk - East Geer Street (South Side)** from Alston Avenue east to east property line of Tax Map 143-3-20 and **Miami Boulevard (West Side)** from north property line of Tax Map 143-3-19 to south property line of Tax Map 143-3-19.

SUBJECT: STREET ACCEPTANCE - BUTLER STREET AND BUCHANAN DRIVE

MOTION by Council Member Larson seconded by Council Member Miller to accept the following streets for maintenance by the City of Durham was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

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- a. **Butler Street** from the east ditch line of Farrington Road east to the centerline of Buchanan Drive (910'); and
- b. **Buchanan Drive** from the centerline of Butler Street north to the end of curb, gutter, and paving (480').

SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE

MOTION by Council Member Larson seconded by Council Member Miller to approve the official minutes of the regular October 19, 1998 City Council meeting was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

At this time, action by the City Council was taken on the following item printed on the supplemental agenda.

SUBJECT: APPROVAL OF FIREWORKS DISPLAY FOR THE "LIGHT UP DURHAM" HOLIDAY EVENT

MOTION by Council Member Larson seconded by Council Member Miller to approve the display of fire works on Saturday, December 5, 1998 (Rain Date: Sunday, December 6, 1998) at the Durham Athletic Park for the "Light Up Durham" Holiday Event was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Member Engelhard. Absent: Council Member Burnette.

[GENERAL BUSINESS AGENDA]

[PUBLIC HEARINGS]

SUBJECT: 1998 U. S. DEPARTMENT OF JUSTICE/BUREAU OF JUSTICE ASSISTANCE LOCAL LAW ENFORCEMENT GRANT

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to convene the required public hearing to receive public comments;

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review the Citizens Advisory Board's initial recommendations; and review the proposed grant project ordinance for the total award sum of \$525,668; and

To approve the recommended funds allocation plan and to adopt the grant project ordinance--if no changes are recommended at the public hearing was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Ordinance #11599

SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) REPROGRAMMING

Kendall Abernathy, of the Housing Department, informed council of the revised resolution and changes on the project list regarding Braggtown Corridor improvements and Edgemont Area acquisitions/demolitions.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Glyndola Beasley, representing Consumer Credit Counseling Services, requested that the city grant funds to CCS to purchase the vacant commercial building [former Employment Security Commission] located on Mangum Street.

Dr. Earnest Johnson spoke in support of the proposal submitted by Consumer Credit Counseling Services for purchase of the former Employment Security Commission building.

Mickey Brown, representing the Citizens' Advisory Committee, spoke in support of the resolution and the reprogramming of funds submitted by the staff.

Belinda Evans, representing Durham Business & Professional Chain, asked the council to consider an inter-city revolving loan fund to help businesses to obtain loans. Also, she requested \$50,000 for an Economic Development Specialist to work with people who have existing businesses and applying for loans for education, training and support.

The Mayor asked if there were other persons present wanting to speak on this item. Mayor Tennyson closed the public hearing.

Council Member McKissick asked the administration if the proposal

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from Consumer Credit Counseling Services was on the project list.

Kendall Abernathy stated that CCS was not presently listed. She stated the proposal was received this morning.

City Manager Ewell stated the administration would be working with Consumer Credit Counseling through the city's grant office to seek additional alternative funding.

Council Member Cox stated that the revolving loan fund was an item brought before the council during the budget session and the council did support same. He noted by approving the item as printed would establish a \$100,000 revolving loan fund for small businesses.

Council Member Miller stated he was in support of the manager's recommendation to look at other grant funding for Consumer Credit Counseling Services.

MOTION by Council Member McKissick seconded by Council Member Cox to receive citizens' comments on the proposed CDBG reprogramming; and

To adopt a "Resolution to Reprogram Prior Years Community Development Block Grant Funds to Establish Approved Projects for Fiscal Year 1998-99" was approved at 8:09 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Resolution #8514

SUBJECT: SECOND TOWER PROJECT

To receive citizens' comments on the proposed second tower project, an apartment complex for senior citizens, to be located on top of the Durham Centre Plaza.

At the Committee-of-the-Whole Meeting on Thursday, November 12, 1998, City Manager Ewell stated the developer Don Phillips was requesting withdrawal of the Second Tower Project.

Mayor Tennyson closed the public hearing.

MOTION by Council Member Larson seconded by Council Member Miller to table this item was approved at 8:10 p.m. by the following

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vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: STREET CLOSING (SC98-4) - SLATER ROAD

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Attorney Ron Rogers, representing the petitioners, spoke in support of this street closing.

Ed Sconfienra spoke in support of the street closing.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

MOTION by Council Member Larson seconded by Council Member Miller to receive citizens' comments on the proposed closing of a 2.3± acre portion of Slater Road from NC Highway 54 east 1,676± linear feet; and

To adopt an "Order Permanently Closing 2.3± Acres of Slater Road" from NC Highway 54 east 1,676± linear feet was approved at 8:16 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Ordinance #11600

(Note: The condition stated in the Order that a dedication plat for the new alignment of Slater Road and Hopson Road is recorded)

SUBJECT: STREET CLOSING (SC99-9) - TRAIL 23

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Robert Young, the petitioner, spoke in support of this street closing.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

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MOTION by Council Member Larson seconded by Council Member Miller to receive citizens' comments on the proposed closing of a 5,438± square foot portion of Trail 23; and

To adopt an "Order Permanently Closing 5,438± Square Feet of Trail 23" was approved at 8:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

Ordinance #11601

SUBJECT: ZONING MATTER CASE P97-84, INNESBROOK VILLAGE, FAYETTEVILLE ROAD AND AMERICAN TOBACCO RAIL-TRAIL ADJACENT TO WOODCROFT

Case: P97-84

Applicant: Innesbrook Village

Location: The 18.79 acre site is located between Fayetteville Road and American Tobacco Rail-Trail, adjacent to Woodcroft and west of Innesbrook Apartments (Tax Map 522, Block 1, Lot 3 partial)

Request: Rezoning from OI-2 (General Office and Institutional District); F/J-B (Falls/Jordan Protected Area) to CT(D) (Commercial Trades District with a Development Plan) and OI-2(D) (General Office and Institutional District with a Development Plan); F/J-B (Falls/Jordan Protected Area).

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2; F/J-B and placing same in and establishing same as CT(D) and OI-2(D); F/J-B.

Zoning Committee's Recommendation and Vote: Denial 4-3

City Manager's Recommendation: Denial

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponents

Attorney Al Alphin, representing the applicant, spoke in support of this rezoning request. He noted the proposal was for self-storage a facility, retail and office. He noted they have had meetings with the neighborhood and made a tremendous effort to

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satisfy the residents. Attorney Alphin stated this plan reduces traffic; reduction of use from 190,000 square feet to 160,000 square feet; provides services for the existing residential areas; positive for Durham's tax roll; and the plan contains a lot of development standards and numerous enhancements.

Jim Branch, the developer, spoke in support of the request and requested council's support.

Debra Jones, representing Parsons Chase Homeowners' Association, spoke in support of the request. Ms. Jones noted she would rather have a self-storage facility outside her window rather than an apartment, a hotel, an office or bank; etc. She stated the developers have increased the size of the buffers and they have worked with the neighborhood to increase the foilage and to keep the existing vegetation.

Charlie Anderson, representing the Self Storage Facility, stated his company would be a landscape buffer between the storage facility and commercial use. He noted the storage facility would be much lower in intensity.

Opponents

Bill Kalkhof, a resident of Westridge Drive, spoke in opposition to the request. He noted with all the current development underway at Woodcroft Parkway and Highway 54, warehouses would seem to be an inappropriate use. Mr. Kalkhof urged council support of the Planning Department's recommendation of denial.

William Redi, a resident of Woodcroft, stated he was made of this request on today. He asked the council to protect the property values of the homeowners by changing the direction of the growth that is occurring in this area.

Bonnie _____ spoke in opposition to this request. She stated the traffic is already to congested in this area.

Jim _____, a resident of Woodcroft, asked what other retail businesses are being proposed for this area in addition to the storage facility.

Gan Tito, a resident of Woodcroft, spoke in opposition to this proposal.

Rebuttal

Attorney Al Alphin stated the proposed facility reduces traffic.

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He also noted the concerns raised by the residents were addressed in the proposal.

Terry Murphy, a resident of Nuttree Way, spoke in support of the request.

Mayor Tennyson closed the public hearing.

Several Council Members spoke in opposition to this request. It was noted that this area already has a significant amount of self-storage facilities and a more appropriate use of this area was needed other than CT zoning.

Shelia Stains-Ramp, of the City/County Planning Department, briefed the council on the staff's recommendation of denial.

Council Member Blyth suggested that the council make a recommendation to the Planning Commission to review this parcel of land to determine if it would be appropriate to downzone to OI-1.

Mayor Tennyson noted that Council Member Blyth's suggestion should come through the Public Works Committee.

MOTION by Council Member Blyth seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2; F/J-B and placing same in and establishing same as CT(D) and OI-2(D); F/J-B **FAILED** at 9:03 p.m. by the following vote: Ayes: None. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: Council Member Burnette.

SUBJECT: ZONING MATTER CASE P98-40, OLDE SOUTH HOMES, 216 LATTA ROAD

Case: P98-40

Applicant: Olde South Homes

Location: 32.06 acres at 216 Latta Road (west of the Latta/Roxboro Roads intersection, north of Latta Road (Tax Map 325-1-09, 09B)

Request: Rezoning from R-20 (Residential 20); E-B (Eno Basin) to PDR-2.25 (Planned Density Residential with 2.25 units per acre); E-B (Eno Basin)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above

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described property out of R-20; E-B and placing same in and establishing same as PDR-2.25; E-B.

Zoning Committee's Recommendation and Vote: Denial 7-0

City Manager's Recommendation: Denial

Note: A sufficient protest petition filed against this rezoning request.

Bill Ripley, the applicant, requested a deferral of this rezoning request for two cycles.

Mayor Tennyson opened the public hearing.

A motion was made by Mayor Pro Tempore Clement to hear from the citizens who want to speak and defer a decision until the January 4, 1999 City Council Meeting. This motion was seconded by Council Member Jacobs.

Several Council Members spoke in support of receiving comments from the citizens and taking action on the request this evening.

Bill Ripley, the applicant, stated the purpose of the deferral would allow the plan to be revised to accommodate comments from NCDOT and the staff.

Council Member Blyth asked the administration if they had the traffic data needed by council to make a decision this evening.

Gail Sherron, of the City/County Planning Department, stated the administration was in receipt of all the information that was available at this point; however, she noted the State would not offer any more information until a more thorough study was completed relative to the drive-cut requested by the applicant.

A substitute motion was made by Council Member Larson to continue the public hearing [without citizens' comments tonight] to the January 4, 1999 City Council Meeting. This motion was seconded by Council Member Griffin.

SUBSTITUTE MOTION TO THE SUBSTITUTE by Council Member Blyth seconded by Council Member Cox to table the current discussion regarding deferral of this rezoning request was approved at 9:23 p.m. was approved by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Englehard, Griffin, Jacobs, Larson and Miller. Noes: Council Members Langley and McKissick. Absent: Council Member Burnette.

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Proponents

Bill Ripley, the applicant, spoke in support of the request.

Opponents

Dewey Davis, a resident of Donphil Drive, raised concern with the daily traffic congestion existing on Latta Road. He urged the council to deny this request.

Hurley Mulkey, a resident of Latta Road, spoke in opposition to this request. He raised concern with the amount of blasting that would need to be done due to rocks in the area. Also, Mr. Mulkey noted that the turn lane off Latta Road into the project was not feasible.

Rebuttal

Bill Ripley stated he would like to have an opportunity to address the concerns of the neighborhood in more detail.

Paul Norby, of the City/County Planning Department, stated the administration felt the density was too much for the proposed development. Also, Mr. Norby addressed the procedures for deferrals.

Several Council Members stated they would not be in support of deferring this matter to the January 4, 1999 City Council Meeting.

Mayor Pro Tempore Clement noted it would be unfair to the applicant to take action tonight on a proposal that is incomplete.

A motion was made by Mayor Pro Tempore Clement to defer a decision on this rezoning request and to continue the public hearing without further advertising until the January 4, 1999 City Council Meeting. This motion was seconded by Council Member Engelhard.

Council Member Miller noted he would not be supporting a deferral and he was not in support of the rezoning request.

A substitute motion was made by Council Member Miller to approve the rezoning request as printed on the agenda. This motion was seconded by Council Member Cox.

At this time, Bill Ripley the applicant requested withdrawal of the rezoning request.

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SUBSTITUTE MOTION TO THE SUBSTITUTE by Council Member McKissick seconded by Mayor Pro Tempore Clement to accept the applicant's request of withdrawal for Rezoning Case P98-40 **FAILED** at 10:09 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Larson and McKissick. Noes: Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley and Miller. Absent: Council Member Burnette.

At this time, a motion was made by Council Member Blyth seconded by Council Member Engelhard to suspend the rules **FAILED** at 10:13 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Brown, Engelhard and McKissick. Noes: Mayor Tennyson and Council Members Langley, Cox, Jacobs, Larson, Miller and Griffin. Absent: Council Member Burnette.

SUBSTITUTE MOTION by Council Member Miller seconded by Council Member Cox to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; E-B and placing same in and establishing same as PDR-2.25; E-B **FAILED** at 10:13 p.m. by the following vote: Ayes: None. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: Council Member Burnette.

**SUBJECT: ZONING MATTER CASE P98-49, CALLEMYN-PARKER, INC. -
CANADIAN COURT EAST OF AMHURST STREET SOUTH OF NC
HIGHWAY 54**

Case: P98-49

Applicant: Callemyn-Parker, Inc.

Location: 4.91 acres at Canadian Court, east of Amhurst Street, south of NC Highway 54 (Tax Maps 535-1-3, 5 [partial], 12-14, and 535-6-11-13)

Request: Rezoning from RD (Rural District); F/J-B (Falls Jordan Protected Area) to R-20 (Residential 20); F/J-B (Falls Jordan Protected Area)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD; F/J-B and placing same in and establishing same as R-20; F/J-B.

Zoning Committee's Recommendation and Vote: Approval 7-0

City Manager's Recommendation: Approval

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As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD; F/J-B and placing same in and establishing same as R-20; F/J-B was approved at 10:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: ZONING MATTER CASE P98-58, R. L. HORVATH ASSOCIATES FOR TRINITY BUILDERS - NORTHWESTERN CORNER OF UMSTEAD AND BIVINS ROAD (GRANDOVER SUBDIVISION)

Case: P98-58

Applicant: R. L. Horvath Associates for Trinity Builders

Location: 44.007 acres on the northwestern corner of Umstead and Bivins Roads (Grandover Subdivision, Section 2) (Tax Map 834-1-2 partial)

Request: Rezoning from R-20 (Residential 20) and RD (Rural District); E-B (Eno Basin) to PDR 2.0 (Planned Density Residential with 2 units per acre); E-B (Eno Basin)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and RD; E-B and placing same in and establishing same as PDR 2.0; E-B.

Zoning Committee's Recommendation and Vote: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Mr. R. L. Horvath, the applicant, spoke in support of the request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same

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being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and RD; E-B and placing same in and establishing same as PDR 2.0; E-B was approved at 10:16 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

SUBJECT: THE SOUTHEAST DURHAM PLAN

To receive citizens' comments on the March 4, 1998 Draft *Southeast Durham Plan* with the modifications indicated on the attached October 23, 1998 Addenda and including Options C and D to the extent they fall within the planning area; and

To adopt the Plan, as amended.

Keith Luck of the City/County Planning Department informed the council that this item was deferred by the County Commissioners. Mr. Luck stated a community meeting is scheduled for the week of November 30th to address some of the changes raised by the citizens.

Charlotte Hyer, representing Stirrup Creek Homeowners Association, presented the following letter:

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Memo: Durham City Council

Stirrup Creek Homeowners Association is requesting a delay in your consideration to adopt the Southeast Durham Plan.

The Durham Planning Department's notification of the November 9th meeting was not received by Stirrup Creek Board members until November 7th. That was inadequate preparation time to review the plan prior to the County Commissioners meeting on November 9th. At that meeting we requested and received a delay.

Attempts to meet with Keith Luck were unsuccessful during the week of November 10-13. Stirrup Creek Homeowners Association is questioning #8, point 3, of the October 26, 1998 addenda, and a meeting with Keith Luck and a representative from the Parks & Recreational Department is requested.

Thank you for your consideration.

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MOTION by Council Member Larson seconded by Council Member Miller to continue the public hearing without further advertising until the December 21, 1998 City Council Meeting was approved at 10:21 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Burnette.

[OTHER MATTERS]

SUBJECT: POLICY ON UTILIZING CITY FUNDS FROM THE DISPUTE SETTLEMENT ACCOUNT

MOTION by Council Member McKissick seconded by Council Member Miller to approve the Policy on Utilizing City Funds from the Dispute Settlement Account was approved at 10:23 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Member Engelhard. Absent: Council Member Burnette.

MEMO TO: Mayor and Members of City Council

FROM: P. Lamont Ewell, City Manager

DATE: November 16, 1998

SUBJECT: Policy on Utilizing City Funds from Dispute Settlement Account

The City Council recently set aside \$2,500 to be utilized to help pay the costs of a mediator for land use disputes that arise on rezoning cases that come before the Council. In order to utilize these funds in a consistent and equitable manner, the following policy guidelines are recommended to be followed when allocating and disbursing City funds to assist in such dispute settlement efforts.

The following conditions should be met prior to utilizing City funds for such disputes:

1. Entering into mediation by the outside parties prior to issues coming to City Council will be viewed by Council as a positive step in helping decisions to be made;
2. If City participation in a mediation effort is deemed appropriate, all parties to the dispute agree that mediation

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may be beneficial to the dispute and agree to enter discussions with an honest approach and consider alternate positions in good faith;

3. All parties, including the City, agree to pay a 1/3 share of the costs of mediation, with the stipulation that the costs for the City should not exceed \$1,000 (unless City Council specifically approves a different cost-sharing arrangement or higher limit).
4. All parties agree to a specific facilitator or facilitating organization who will convene meetings, help set ground rules for meetings, coordinate communications among all parties involved and seek to help settle the dispute;
5. City Council should designate a particular land use dispute as being one for which such mediation may be helpful, should set guidelines for cost sharing on the meetings, and should set a maximum amount of City funds to be used for the dispute settlement effort;
6. The City Manager should designate a staff person who would serve as contact between the facilitator and the Administration and who may or may not attend the meetings, depending on the feelings of the parties involved;
7. All parties should agree to a preliminary time frame during which the mediation process is to be carried out and at the end of which a report will be made to the City Council;
8. Before disbursing City funds, adequate documentation of actual costs incurred and of the other parties' payment of appropriate pro rata shares will be provided to the satisfaction of the City Manager or his designee;
9. If one or more parties involved in the dispute settlement effort (including the City) feels at any time that continued meetings would be of no further value, or if all parties feel that an acceptable settlement to the dispute has been reached, the meetings (at least those involving the City funds) should be terminated, and a report should be presented to City Council about the process undertaken and results achieved to that point.

There being no further business to come before the Council, the meeting was adjourned at 10:23 p.m.

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D. Ann Gray
Deputy City Clerk

Margaret M. Bowers, CMC
City Clerk